

112  
7/9/98

9 IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR JUSTICE A.J. SADASHIVA

WRIT PETITION NO.20693/1992

BETWEEN:

S.P. Muniyappa,  
S/o Chikkapapanna, aged about 56 years,  
P.C. Extension, Kolar Town,  
Kolar Taluk, Kolar District. .. PETITIONER

[By Sri.B.M. Krishna Bhat, adv.for petitioner]

AND:

1. State of Karnataka,  
by Secretary to Government,  
Revenue Department,  
M.S. Buildings,  
Dr.Ambedkar Road,  
Bangalore-1.
2. The Land Tribunal,  
Kolar Taluk, Kolar,  
by its Secretary.
3. The District Land Reforms Appellate  
Authority, Kolar District, Kolar.
4. V. Kondappa, S/o Venkataswamy,  
Major.  
Resident of Kotaripalya,  
Kolar Town, Kolar Dist.
5. Smt Natalaxamma,  
W/o P. Ramanathan, Major.  
Major Retd. LIC Officer,  
New Extension, Kolar.  
Kolar District.
6. Smt.Parvathamma,.  
W/o G.L.Venkatesh Major,  
No.39, 8th Cross,  
Shenoy Nagar,  
Madras-600 030.
7. K.S. Anantha Swamy,  
S/o Subrahmanya Iyer, Major.  
Contractor,  
No.40, 8th Cross,  
Shenoy Nagar, Madras-600 030.

HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA

112

361

8. Ramamurthy, S/o K.Subrahmanya Iyer,  
Major. No.40, 8th Cross,  
Shenoy Nagar,  
Madras-600 030.
9. K.S.Vijaya Rangam,  
S/o K. Subralimanya Iyer,  
Major. No.40, 8th Cross,  
Shenoy Nagar,  
Madras-600 030.
10. Smt Shanthamma,  
W/o late Subrahamaya Iyer, Major.  
No.40, 8th Cross,  
Shenoy Nagar,  
Madras-600 030. ... RESPONDENTS

[By Sri.H.N. Narayan, Adv.for R4,  
Sri.K.H. Jagadish, HCGP for R1 to 3]

This Memorandum of Writ Petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash the order in No.LRF.1160/74-75 dated 27-8-1986 passed by the Land Tribunal, Kolar.

The petition coming on for hearing this day, the court made the following order:

#### ORDER

The order dated August 27, 1986 passed by the Land Tribunal Kolar, in Case No.1160/74-75 is sought to be quashed by the petitioners in this petition.

2. The petitioner claimed tenancy under respondent no.4. He did not appear before the Land Tribunal to give evidence even though the case was

HON'BLE JUSTICE OF KARNATAKA HIGH COURT OF KARNATAKA

362

adjourned for more than a dozen times. Ultimately, his son appeared and gave evidence claiming ownership of the land in question. He has also said that one Katakapalli Ramaiah was the tenant of the land in question. He denied the sale in favour of Subramanya Iyer. He has stated that the documents are fabricated. On the basis of the admitted evidence, the Tribunal rejected the application filed by the petitioner. It is not in dispute that the land in question originally belong to the petitioner. He sold the same in favour of 4th respondent under a registered sale deed in the year 1971. There is a recital in the sale deed that the possession was handed over to the purchaser. The 3rd respondent purchased the said land from the 4th respondent under the registered sale deed dated December 22, 1979. The RTC stands in the name of the 4th respondent for the year 1973-74 and 1964-75. The petitioner claimed tenancy in his application for over 10 years prior to the date of the application which relates back to 1964. The tenancy of the petitioner for a period of 10 years under the 4th respondent is absolutely incorrect in view of the sale by the petitioner in favour of the 4th respondent was in the year 1972. The petitioner did not appear before the Land Tribunal to give evidence. On the

REPORT OF KARNATAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA

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267

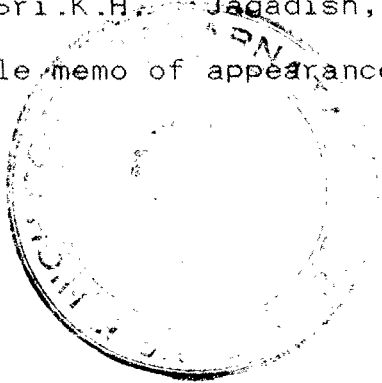
other hand his son who appeared before the Tribunal gave evidence in direct contravention of the application. He pleaded ownership, not tenancy. In those circumstances, the Tribunal taking into account the sale by the petitioner in favour of the 4th respondent and by the 4th respondent in favour of the 3rd respondent has held that the petitioner failed to establish his tenancy. As the Land Tribunal has recorded a finding of fact on the basis of evidence, it is not just and proper for this court to interfere with such finding in exercise of its jurisdiction under Article 227 of the Constitution of India unless it is shown that the order is either arbitrary or unreasonable or based on no evidence. I find none of those legal infirmities in the order.

3. The petition, therefore, fails and accordingly dismissed. Rule discharged.

4. In the circumstances of the case, there is no order as to costs.

5. Sri.K.H. Jagadish, learned HCGA is permitted to file memo of appearance within four weeks.

Sd/-  
JUDGE



HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA